

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13-cv-133

HATHAWAY CONSTRUCTION
SERVICES, INC.,

Plaintiff,

vs.

KASSINGER DEVELOPMENT GROUP
NC, LLC,

Defendant.

ORDER

THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction. In the Complaint (#1) filed in the matter, the Plaintiff alleges that Defendant is a North Carolina limited liability company with its principal place of business in Asheville, North Carolina. The Plaintiff further alleges that jurisdiction in this matter is based upon diversity jurisdiction.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4th Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c) (“If at any time before final judgment it appears that the district

court lacks subject matter jurisdiction, the case shall be remanded.”). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). Defendant has not yet disclosed whether the Defendant has a constituent member or partner who is a citizen of North Carolina and therefore will be required to do so.

ORDER

IT IS, THEREFORE, ORDERED that on or before July 31, 2013, the Defendant shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of the above referenced LLC and for any such constituent members or partner that is a limited liability company or partnerships shall identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: July 17, 2013

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Dennis L. Howell
United States Magistrate Judge

